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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**NANCY TAN, Guardian Ad-Litem for
PAUL HOA,**

Plaintiff,

v.

RICHARD RILEY, et al.,

Defendants.

C 12-2078 EMC

**CROSS-COMPLAINT FOR EQUITABLE
INDEMNITY, CONTRIBUTION, AND
DECLARATORY RELIEF**

Judge: Hon. Edward M. Chen
Trial Date: Not Set
Action Filed: April 25, 2012

**R. RILEY, R. CHAN, D. MOORE, R.
MATTEUCCI, T. ALIOTO, T. FOSS, G.
MOON,**

Cross-Claimants, v.

**DAVID F. LOPEZ, an Individual,
GREGORY STAGNITTO, an Individual,
BRIDGE TRANSPORT, an entity of an
unknown form, STAG LEASING, INC., a
California Corporation, and DOES 1-20,
inclusive,**

Cross-Defendants.

1 COME NOW Defendants and Cross-Claimants D. MOORE, R. CHAN, R. RILEY, T.
2 FOSS, G. MOON, T. ALIOTO and R. MATTEUCCI (Cross-Claimants) and file this cross-
3 complaint against Defendants and Cross-Defendants DAVID F. LOPEZ, an individual;
4 GREGORY STAGNITTO, an individual; BRIDGE TRANSPORT, an entity of an unknown
5 form; STAG LEASING, INC., a California corporation; and DOES 1-20, inclusive (Cross-
6 Defendants), and each of them, and allege as follows:

7 **GENERAL ALLEGATIONS**

8 1. Cross-Claimants were at all time alleged in the cross-complaint employees of the
9 California Department of Corrections and Rehabilitation and assigned to work at San Quentin
10 State Prison.

11 2. Cross-Claimants are presently unaware of the true names and capacities of Cross-
12 Defendants named herein as DOES 1-20, inclusive, and will seek leave of Court to amend the
13 cross-complaint to allege their true names and capacities as soon as this information has been
14 ascertained.

15 3. At all times herein, Cross-Defendants, and each of them, were agents, servants, and
16 employees of each of the other Cross-Defendants and were acting at all times mentioned herein
17 within the course of said agency and/or employment.

18 4. Plaintiff PAUL HOA filed a corrected third amended complaint (TAC) on December
19 13, 2013. (ECF No. 119.)

20 5. Cross-Claimants incorporate by reference, as though fully set forth, the contents of
21 the TAC solely for the purpose of referencing the allegations of the TAC and without admitting
22 the truth of any of the allegations therein.

23 6. Cross-Claimants have answered the TAC and have denied any constitutional
24 violation, negligence, or any other wrongdoing on their part, and have denied that they are
25 obligated to Plaintiff for money damages in any amount or at all.

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FIRST CROSS-CLAIM FOR RELIEF
(Equitable Indemnity Against All Cross-Defendants)

7. Cross-Claimants refer to and incorporate by reference each and every allegation contained in paragraphs 1-6 of this cross-complaint as though fully set forth herein.

8. Cross-Claimants herein deny all liability in connection with the matters complained of in the TAC. But in the event Cross-Claimants are held liable to Plaintiff, such liability will be the result of and caused by the negligence, carelessness, acts or omissions and/or other fault of Cross-Defendants, and each of them, and not the result of deliberate indifference or other willful misconduct on the part of Cross-Claimants.

9. In the event that Cross-Claimants are found to be liable to Plaintiff, such liability arises only by reason of the active and primary negligence or other fault of Cross-Defendants, and each of them, and through no fault of Cross-Claimants.

10. By reason of the foregoing, Cross-Claimants are entitled to equitable indemnification from Cross-Defendants, and each of them.

WHEREFORE, Cross-Complainant prays for judgment against Cross-Defendants, as set forth in this cross-complaint.

SECOND CROSS-CLAIM FOR RELIEF
(Contribution Against All Cross-Defendants)

11. Cross-Claimants incorporate by reference paragraphs 1-10 above and each and every allegation contained in Cross-Claimants' first claim for relief as though fully set forth herein.

12. Cross-Claimants herein deny all liability in connection with the matters complained of in the TAC. But in the event Cross-Claimants are held liable to Plaintiff, such liability will be the result of and caused by the negligence, carelessness, acts or omissions and/or other fault of Cross-Defendants, and each of them, not the result of deliberate indifference or other willful misconduct on the part of Cross-Claimants.

13. In the event that Cross-Claimants are found to be liable to Plaintiff, such liability arises only by reason of the active and primary negligence or other fault of Cross-Defendants, and each of them, and through no fault of Cross-Claimants.

14. By reason of the foregoing, Cross-Claimants are entitled to contribution from Cross-Defendants, and each of them.

WHEREFORE, Cross-Claimants pray for judgment against Cross-Defendants, as set forth in this cross-complaint.

THIRD CROSS-CLAIM FOR RELIEF
(Declaratory Relief Against All Cross-Defendants)

15. Cross-Claimants incorporate by reference paragraphs 1-13 above and each and every allegation contained in Cross-Claimants' first claim for relief as though fully set forth herein.

16. A dispute and actual controversy has arisen and now exists among Cross-Claimants and Cross-Defendants as to whether Cross-Defendants must indemnify or pay contribution to Cross-Claimants in the event Cross-Claimants are found to be liable to Plaintiff for the claim alleged in the TAC.

17. Cross-Claimants therefore request a judicial declaration that Cross-Defendants are obligated under the principles of equitable indemnity and contribution to indemnify Cross-Claimants from the claims made by Plaintiff and to contribute to a judgment, if any, against Cross-Defendants and in favor of Plaintiff.

WHEREFORE, Cross-Claimants pray for judgment against Cross-Defendants, as set forth in this cross-complaint.

PRAYER FOR RELIEF

Cross-Claimants pray for judgment against Cross-Defendants, and each of them, as follows:

1. In the event that any sum is awarded to Plaintiff and against Cross-Claimants, Cross-Claimants shall be entitled to judgment in said amount as against Cross-Defendants, and each of them, including such other damages and costs which Cross-Claimants have incurred or suffered;

2. In the event that any sum is awarded to Plaintiff and against Cross-Claimants, Cross-Defendants shall indemnify Cross-Claimants based on a comparison and determination of fault among Cross-Claimants and Cross-Defendants;

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1 3. In the event that any sum is awarded to Plaintiff and against Cross-Claimants, Cross-
2 Defendants shall pay contribution to Cross-Claimants based on a comparison and determination
3 of fault among Cross-Claimants and Cross-Defendants;

4 4. For declaratory judgment that Cross-Defendants are obligated to indemnify Cross-
5 Claimants for the full amount of any loss suffered and judgment paid by Cross-Claimants as a
6 result of the prosecution of this action, and for the full amount of such costs, attorneys' fees, and
7 other expenses as Cross-Claimants may be required to incur in the conduct of the defense of this
8 action; and

9 5. For such other and further relief as the Court deems just and proper.

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11 Dated: June 23, 2014

Respectfully submitted,

12 KAMALA D. HARRIS
13 Attorney General of California
14 PATRICK MCKINNEY
15 Supervising Deputy Attorney General

16 /s/ James J. Jirn
17 JAMES J. JIRN
18 MANEESH SHARMA
19 Deputy Attorneys General
20 *Attorneys for Defendants*
21 *D. Moore, R. Chan, R. Riley, T. Foss, G.*
22 *Moon, T. Alioto, and R. Matteucci*

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CERTIFICATE OF SERVICE

Case Name: **Tan, Nancy, Guardian Ad-Litem** No. **C 12-2078 EMC**
for Paul Hoa v. Riley, et al.

I hereby certify that on June 23, 2014, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**CROSS-COMPLAINT FOR EQUITABLE INDEMNITY, CONTRIBUTION,
AND DECLARATORY RELIEF**

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 23, 2014, at San Francisco, California.

L. Santos

Declarant

/s/ L. Santos

Signature